IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

OP.No. 6918 of 2001(W)

PETITIONERS:

---

1. NARAYAN GAJANAN KOLLE, S/O. GAJANAN GANAPATI KOLLE, 21, V.T. ROAD, BHATKAL, KARNATAKA (PARTNER, M/S.SHIVANI LABORATORIES).

2. SHANTABAI GAJANAN KOLLE, 21,V.T. ROAD, BHATTAL,KARNATAKA (PARTNER,M/S. SHIVANI LABORATORIES).

3. RAGHUVEER GAJANAN KOLLE,S/O. GAJANAN GANAPATI KOLLE, 21,V.T.ROAD, BHATKAL,KARNATAKA (PARTNER,M/S.SHIVANI LABORATORIES).

4. SANJAY.G.REVANKER,AUTHORISED SIGNATORY,M/S.SHIVANI LABORATORIES,571/b,SHIRALI 581354, KARNATAKA.

5. M/S.SHIVANI LABORATORIES, 571/B, SHIRALI 581354,KARNATAKA

BY ADV. SRI.M.RAMESH CHANDER
SRI.M.VIJAYAKUMAR

RESPONDENTS:

---

1. STATE OF KERALA,REP. BY SECRETARY TO HEALTH,GOVT. OF KERALA, TRIVANDRUM.
2. GOVERNMENT ANALYST AND DIRECTOR, CENTRAL DRUGS LABORATORY, CALCUTTA.
3. DRUGS INSPECTOR, KASARAGOD.

BY GOVERNMENT PLEADER SHRI. SANDESH RAJA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 20/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 11318/01 IN OP 6918/01

DISMISSED.

SD/- ANTONY DOMINIC, JUDGE.

20/2/2007

APPENDIX

PETITIONERS' EXTS:

Ext.P1 true copy of the Analyst Report.

Ext.P2 true copy of the certificate given by the Govt. Analyst, Karnataka.

Ext.P3 true copy of the letter No.SW 1369/95/DTL dt.17.7.1995.

Ext.P4 true copy of the report sent by the Director, Central Laboratories, Calcutta dt. 11.1.1996.

Ext.P5 true copy of the complaint filed by the 2nd respondent before the Chief Judl. Magistrate Court, Kasaragod as C.C.229 of 1999.

Ext.P6 true copy of the order of the High Court of Karnataka at Bangalore in C.P.No.256/99 dt. 3.2.1999.

Antony Dominic, J.
==========
O.P.No.6918 of 2001
==========

Dated this the 20th day of February, 2007.

JUDGMENT

This Writ Petition has been filed seeking to quash the proceedings in C.C.No.229 of 1999 on the file of the Chief Judicial Magistrate Court, Kasaragod, which was registered on the basis of a complaint filed by the third respondent – the Drugs Inspector. During the course of hearing, counsel for the petitioners made available a copy of the order of this Court in Crl.M.C.No.4839 of 2001 filed by the very same petitioners in relation to an identical proceedings initiated in C.C.No.92 of 1999 on the file of the Chief Judicial Magistrate Court, Thrissur. A reading of the order discloses that identical contentions regarding the defect in analysis and also regarding the procedure prescribed under item No.93 of British Pharmacopoeia have been raised and dealt with by this Court. It was ordered that these contentions may be put forward by the petitioner by way of defence before the Trial Court. Considering the request of the petitioners and that the trial had not commenced and also that they sought more time to appear before the court and apply for regular bail, this Court

granted three months time in that case.

2. Taking note of the aforesaid order passed by this Court in an identical case, I dispose of this Writ Petition making it clear that it will be open to the petitioners to urge all their contentions including those noted herein above before the Trial Court by way of defence. Counsel for the petitioner made a request for time to apply for regular bail from the Chief Judicial Magistrate Court, Kasaragod. Taking note of the fact that by order dated 28.2.2001, this Court had stayed all further proceedings in C.C.No.229 of 1999, it is ordered that further proceedings will be kept in abeyance for a period of two months from today and in the meanwhile, the petitioner will be at liberty to seek regular bail from the trial court. Thereafter, the trial will be continued and concluded as expeditiously as possible.

The Original Petition is disposed of as above.

Antony Dominic
Judge.

ess 20/2